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Attorney's Docket No. 13054.01600

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ELECTION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Francis C. Szoka, Jr.
Xin Guo

For: pH SENSITIVE LIPIDS BASED
ON ORTHO ESTER LINKERS,
COMPOSITION AND METHOD

Serial No.: 09/778,388

Filed: February 7, 2001

Examiner: R. Shnizer

Group Art Unit: 635

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RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Restriction Requirement mailed March 20, 2002, please withdraw from consideration claims 4, 7-10, 16-18, 25, 27, 29, 35 and 47. Applicant submits the following remarks.

The Examiner did not divide the claims into groups of claims, but rather requires the election of species. First, the Examiner requires restriction to a particular embodiment of the species of "hydrophilic portions" as well as restriction to a particular embodiment of the species of "cationic groups." Applicant respectfully submits that the collection of species identified by the Examiner as cationic groups are further embodiments of the hydrophilic groups. Further, Applicant respectfully submits that one of skill in the art would not consider polyethyleneglycol and methoxypolyethyleneglycol patentably distinct, as methoxypolyethyleneglycol is a specific polyethyleneglycol that performs the same function within the invention. Accordingly, to restrict the application to a single species, Applicant elects polyethyleneglycol and requests the Examiner withdraw consideration of claims 4, 7, 8, and 16-18.

The Examiner also requires the election of a species of hydrophobic portions. Accordingly, Applicant elects distearoylglycerol and requests the Examiner withdraw consideration of claims 9 and 10.

The Examiner also requires election of a species of lipids. Accordingly, Applicant elects DOPE and requests the Examiner withdraw consideration of claims 25 and 35.

The Examiner also requires election of a species of targeting ligands. Accordingly, Applicant elects hyaluronan and requests that the Examiner withdraw consideration of claims 27 and 29.

Finally, the Examiner requires election of a species of non-aqueous solvents. Accordingly, Applicant elects glyme and requests that the Examiner withdraw consideration of claim 47.

Applicant respectfully submits that the claims withdrawn from consideration all depend upon generic claims, and thus contain all the limitations of those claims. Thus, upon allowance of those generic claims, Applicant requests that claims 4, 7-10, 16-18, 25, 27, 29, 35 and 47 no longer be withdrawn from consideration as they will satisfy all the requirements of 37 CFR 1.141.

In the event it is determined that a fee pursuant to 37 C.F.R. §1.19(h) is required in connection with this request, the Commissioner is hereby authorized to charge any additional fees, including any fees necessary for extensions of time, or credit overpayment to Deposit Account No. 03-3821, referencing **Attorney Docket No. 13054.01600**. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Crosby, Heafey, Roach & May
Professional Corporation

Dated: April 22, 2002



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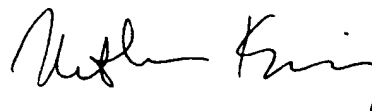
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